IN THE HIGH COURT OF UTTARANCHAL, AT NAINITAL.

Court No.3

Criminal Revision No. 126/ 2003

Nirmal Kumar ..Revisionist.

Vs.

1-State of Uttaranchal

2-Smt. Arti Devi W/o Nirmal Kumar

3. Km. Deva, D/o Nirmal Kumar ..Respondents.

Sri Lokendra Dobhal, learned counsel for the revisionist.

Sri Vikash Pandey learned counsel for respondent Nos. 2 and 3.

Hon'ble Irshad Hussain, J.

This is a revision under section 19(4) of the Family Courts Act against the order dated 26-6-2003 passed by the Principal Judge, Family Court, Pauri Garhwal under section 127 of the Code of Criminal Procedure (for short 'Code'). By this order the rate of maintenance allowance was altered under the changed circumstances because initially the petition under section 125 of the 'Code' was filed in the year 1988 and the same was decided on 12.4.1989. On earlier two occasions the respondent Nos. 2 and 3 have resorted to the said provision of section 127 of the 'Code' and some enhancement in the maintenance allowance was made. by the impugned order the further enhancement had been made under the changed circumstances as a result of inflationary trend and higher standard of living.

2- Both the learned counsel have however conceded that alteration in the maitenance allowance was necessary in view of the cost of living having become expensive. However the learned counsel for the revisionist submitted that the revisionist is getting about 5000/- rupees per month as salary after deduction and if the altered maintenance allowance is reduced to Rs. 2000/- per month only the revisionist will have no objection to the alteration to this extent. The learned counsel for the respondent Nos. 2 and 3 agreed to this point of view and, therefore, both the learned counsel agreed that considering the salary of the revisionist the total maintenance allowance need to be altered only up to

Rs. 2000/-(two thousand) per month instead of Rs. 2,500/-(two thousand five hundred) as awarded by the learned Principal Judge, Family Court.

3- In view of above and with the consent of both the learned counsel the impugned order dated 26.6.2003 is modified to the extent that the respondent Nos. 2 and 3 together will be entitled to altered maintenance allowance at the rate of Rs. 2,000/- per month with effect from 1.1.2003. The amount already paid shall be accordingly adjusted and the revisionist shall continue to pay the altered maintenance allowance at the said rate of Rs. 2000/- per month in the first week of every succeeding month. With this direction the revision petition is finally disposed of.

(Irshad Hussain, J.)

Dated: 15-11-2003

ISB